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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,219	10/06/2003	Eugenio Cruz Garcia	5724.017.24-US	1575
7590	03/29/2005		EXAMINER	-
MCKENNA LONG & ALDRIDGE LLP Song K. Jung 1900 K Street, N.W. Washington, DC 20006			GREEN, CHRISTY MARIE	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 03/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/678,219	GARCIA, EUGENIO CRUZ
	Examiner Christy M Green	Art Unit 3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 October 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-47 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 October 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input checked="" type="checkbox"/> Other: <u>attached figure (4)</u> . |

DETAILED ACTION

This is a first office action for serial number 10/678219, entitled Flooring System Having Microbevels, filed on 10/6/03.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a first and second upper surface, A first groove of claim 1; two sub-surfaces of claim 5; a lowermost surface of claim 9; a decorative motive of claim 17 and 18; the upper surface width of claim 20 and 21 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: a first groove within claim 1, is unclear, since it is not clearly disclosed within the application either within the specification or in the drawings, it is unclear as to what specifically this limitation is supposed to be or where it is located. Until further clarification, the examiner will interpret the claims accordingly.

Claim Objections

Claim 21 is objected to because of the following informalities: the term in the parenthesis "(support in spec?) is unclear and should be clarified and corrected. Until then the examiner is not going to consider this as a limitation of the invention. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 6, 8-10, 14, 16-18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Elmendorf, US patent # 3,880,687.

Elmendorf discloses the claimed invention a tile, comprising a perimeter (see attached figure 4), a first upper surface (attached figure 4) defining a first portion of the perimeter, a second upper surface (at 10) adjacent the first upper surface and defining a second portion of the perimeter (figure 4), wherein the second upper surface is substantially non-coplanar with the first upper surface, and a first groove (12) dividing the second upper surface into at least two sub-surfaces (figure 4); at least a portion of the first portion of the perimeter is elevationally below at least a portion of the second portion of the perimeter (attached figure 4); the first upper surface is substantially parallel to the second upper surface (figure 4); at least two sub-surfaces visually depict separate motifs (by 10 & 12 "cross shape"); at least one of the at least two sub-surfaces is adjacent only the first upper surface and the first groove (attached figure 4); the first groove comprises sidewalls (attached figure 4) substantially perpendicular to the second major surface; a lowermost surface portion of the first surface (attached figure 4) is substantially coplanar with a lowermost surface portion of the first groove (12); the first upper surface (attached figure 4) and the first groove (12) visually depict substantially the same motif (figure 4); the second upper surface comprise an embossed surface texture (column 4, lines 66-68); the surface texture is aligned/unaligned with a decorative motif (to appear as block pattern); and, the first upper surface has a width about half the width of the first groove (12 - attached figure 4).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elmendorf in view of A. Kunz, US patent # 3,846,219.

Elmendorf discloses the claimed invention except for the first surface is oblique to the second upper surface and the first groove is substantially V-shaped. Kunz teaches that it is known in the art to provide the first surface (25) is oblique to the second upper surface (24) and the first groove is substantially V-shaped (figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide oblique angle between the first and second surface or a substantially V-shaped groove as taught by Kunz with the surfaces of Elmendorf, in order to act as a deformable cushion with a decorative layer (column 4, lines 30-39).

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elmendorf in view of Stanchfield, US patent # 6,134,854.

Elmendorf discloses the claimed invention except for at least one locking mechanism arranged elevationally below the first upper surface, a portion of the locking mechanism is hidden by the first or second upper surfaces and at least two tiles joined together with or without glue.

Stanchfield teaches that it is known in the art to provide at least one locking mechanism (10) arranged elevationally below the first upper surface (25), a portion of

the locking mechanism is hidden by the first or second upper surfaces (see attached figure 9), and at least two tiles joined together with glue (column 6, lines 31-33) or without glue (by mechanical fasteners - column 6, lines 32-33). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a locking mechanism below or hidden from the upper surfaces or tiles joined together with or without glue as taught by Stanchfield with the tile of Elmendorf, in order to allow for the contraction and expansion energies and forces to transfer and move freely within the room (column 2, lines 21-24 and 32-33).

Claims 15, 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elmendorf.

Elmendorf discloses the claimed invention as stated above in claim 1, including the first upper surfaces (attached figure 4) forms a second groove (12) having a topography substantially identical to a topography of the first groove (12- figure 4). Elmendorf does not disclose the surface texture comprises at least one embossed depression having a depth less than about 0.2 mm; the first upper is about 0.794 mm below the second upper surface; the first groove is between about 0.3 mm and about 0.9 mm.

In regards to at least one embossed depression having a depth less than about 0.2 mm, the first upper surface is about 0.794 mm below the second upper surface and the first groove is between about 0.3 mm and about 0.9 mm, it would have been an obvious matter of design choice to provide at least one embossed depression having a depth less than about 0.2 mm; the first upper surface is about 0.794 mm below the

second upper surface, since applicant has not disclosed that these dimensions of surfaces solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the dimensions of the surfaces within the references cited.

Claims 22-26, 28-32, 34-43, 45 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stanchfield.

Stanchfield discloses the claimed invention a flooring system comprising at least two planks (10, figure 8) each plank has a perimeter (where 10 points to), a first upper surface (14, 16 – figure 2) defining a first portion of the perimeter, a second upper surface (12 – figure 2) adjacent the first upper surface and defining a second portion of the perimeter (at 10), wherein the second upper surface (12 – figure 2) into at least two sub-surfaces (11, 13) wherein first upper surfaces (14, 16 of adjacent ones of the at least two planks from a second groove (figure 8) having a topography substantially identical to a topography of the first groove; the first upper surface is substantially parallel to the second upper surface (figure 2); the first upper surface (14, 16 – figure 2) is oblique to the second upper surface (12 – figure 2); at least two sub-surfaces (at 11 and 13) visually depict separate motifs (interpreted separate as not together – figure 1); at least one of the at least two sub-surfaces (11) is adjacent only the first upper surface (16) and the first groove (15); the first groove (at 15) comprises sidewalls (attached figure 1 – shaded area) substantially perpendicular to the second major surface (12); second portions of perimeters (at 10) of adjacent ones of the at least two planks are substantially aligned with each other (figure 8); a substantially continuous motif is

visually depicted across sub-surfaces of adjacent ones of the at least two planks (figures 4 and 8), wherein the sub-surfaces (at 11 and 13) comprise at least a portion of the second portion of the perimeter (by being near 12); a substantially continuous surface (figure 1) texture is provided across sub-surfaces of adjacent ones of at least two planks (figure 8), wherein the sub-surfaces comprise at least a portion of the second portion of the perimeter (by being near 12); the surface texture is an embossed surface texture (22, column 6, lines 14-15); the surface texture is aligned (figures 5, 6 and 7 – by the pattern presented) or unaligned (in figure 1) with a decorative motif; the first upper surface (14, 16) and the first groove (at 15) visually depict substantially the same motif (figure 1); at least one locking mechanism (18) arranged elevationally below the first upper surface (14), a portion of the locking mechanism (18) is hidden by the first or second upper surfaces (shown in figure 3), and at least two planks joined together with glue (column 6, lines 31-33) or without glue (by mechanical fasteners - column 6, lines 32-33); at least one side of each of the at least one of the at least two planks contacts more than one adjacent plank (25, 27, 33); the first groove (15) of each of the at least two planks is substantially identical (figure 8); the second groove (at 17) is substantially the same width as the first groove (at 15 –figure 1); and the at least one subsurface visually depicts wood (figure 4).

Stanchfield does not disclose the first groove has a width of less than about 1 mm, the first groove is substantially v-shaped, the embossed surface texture depression is at a depth of 0.2 mm, the first surface is about 0.794 mm below the second upper surface, and the width of the first groove is between about 0.3 mm and about 0.9 mm.

Stanchfield does however teach the thickness of the plank can be 4.5 mm or adjusted to match the thickness of the underlay (column 6, lines 57-60). It would have been an obvious matter of design choice to provide a width less than 1 mm, v-shaped groove, a depth of a depression at 0.2mm, the first surface about 0.794 mm below the second surface and the width of the first groove between about 0.3 mm and about 0.9 mm, since applicant has not disclosed that these sizes, shapes and dimensions solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with size and shapes within the reference cited.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christy M Green whose telephone number is 703-308-9693. The examiner can normally be reached on M-F 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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March 21, 2005